

ORDINANCE NO. S- 416-70

An Ordinance concerning the construction of additional improvements and extensions to the sewage works owned and operated by the City of Fort Wayne, Indiana, the issuance of additional revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the holders of said bonds, and other matters connected therewith

WHEREAS, the City of Fort Wayne, Indiana, has heretofore established and now owns and operates sewage works pursuant to Chapter 284 of the Acts of the Indiana General Assembly for the year 1967; and

WHEREAS, the Board of Public Works of the City of Fort Wayne has represented to the Common Council and the Council now finds that said sewage works is in need of certain additional improvements and extensions; that plans, specifications and estimates have been prepared and filed by the engineers employed by the City for the necessary improvements and extensions to the sewage works owned and operated by said City, which plans and specifications have been approved by said Board and by all governmental authorities having jurisdiction, particularly the Stream Pollution Control Board of the State of Indiana, and the State Board of Health; and

WHEREAS, the Council further finds that the Board of Public Works has advertised for and received bids for the construction of said additional improvements and extensions to the sewage works of said City, and on the basis of said bids the cost of said project, as defined in Sec. 1 of the governing act, will be in the amount of Three Million Three Hundred Fifty-eight Thousand Five Hundred Dollars (\$3,358,500); and

WHEREAS, contributions toward such cost are being made by Fort Wayne Community Schools and Indiana and Purdue Universities in the aggregate amount of Three Hundred Fifty-eight Thousand Five Hundred Dollars (\$358,500); and

WHEREAS, the Council finds that there are now outstanding two issues of bonds, outstanding in the aggregate principal amount of Three Million Seven Hundred Forty-five Thousand Dollars (\$3,745,000), payable out of the revenues of the City's sewage works, one issue designated "Sewage Works Improvement Revenue Bonds," dated November 1, 1959, outstanding in the principal amount of Two Million Fifty-five Thousand Dollars (\$2,055,000), maturing on August 1 in the years 1970 to 1990, inclusive, bearing interest at the rates of five per cent (5%), three and seven-eighths per cent (3-7/8%), and three and one-fourth per cent (3-1/4%) per annum, depending on the maturities; and the other issue designated "Sewage Works Improvement Revenue Bonds of 1961," dated August 1, 1961, outstanding in the principal amount of One Million Six Hundred Ninety Thousand Dollars (\$1,690,000), maturing on August 1 in the years 1970 to 1993, inclusive, bearing interest at the rates of five per cent (5%), three and three-fourths per cent (3-3/4%), and three and one-half per cent (3-1/2%) per annum, depending on the maturities; which two issues are of equal priority and constitute a first charge upon the net revenues of the sewage works; and

WHEREAS, the Council finds that Ordinance No. S-420 adopted by the Common Council on October 27, 1959, authorizing the issuance of said Sewage Works Improvement Revenue Bonds, and Special Ordinance No. S-604 adopted on July 11, 1961, authorizing the issuance of said Sewage Works Improvement Revenue Bonds of 1961, reserved to the City the right to authorize and issue additional

bonds payable out of the revenues of the City's sewage works, ranking on a parity with said Sewage Works Improvement Revenue Bonds and Sewage Works Improvement Revenue Bonds of 1961, for the purpose of financing the additional improvements and extensions hereinbefore referred to, provided, however, that certain financial requirements with respect to a debt reserve and a level of net revenues have been attained, and the Council finds that the sewage works of the City can meet the financial requirements for the issuance of additional revenue bonds ranking on a parity with the outstanding Sewage Works Improvement Revenue Bonds and Sewage Works Improvement Revenue Bonds of 1961; and

WHEREAS, the Common Council finds that the balance of the cost of said additional improvements and extensions over and above the amount of the contributions hereinbefore referred to cannot be provided for out of funds of the sewage works now on hand or to be received prior to the completion thereof; that funds for the balance of the cost thereof should be provided by the issuance of additional revenue bonds payable solely out of the revenues of the City's sewage works, ranking on a parity with the now outstanding Sewage Works Improvement Revenue Bonds, dated November 1, 1959, and Sewage Works Improvement Revenue Bonds of 1961, dated August 1, 1961, hereinabove referred to; that all conditions precedent to the adoption of an ordinance authorizing the issuance of said additional revenue bonds have been complied with in accordance with the provisions of the governing statute; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That the actions of the Board of Public Works

in and about the making of improvements and extensions to the sewage works of the City of Fort Wayne be and the same are hereby approved, ratified and confirmed, and that said Board be and it is hereby authorized and directed to proceed with the acquisition and construction of improvements and extensions to said sewage works including lands, easements, rights-of-way, the St. Joseph River Interceptor Sewer, together with a pumping station and force main, to serve the northeast section of the City, and the St. Mary's River Interceptor Sewer to serve the south side of the City; also additions to the sewage treatment plant consisting of chlorine storage tanks, evaporators, chlorinators, controls and building to house the foregoing, river crossing siphon, chlorine contact tank, terminal pond, and miscellaneous structures, equipment and appurtenances. Said improvements and extensions shall be constructed in accordance with the plans and specifications heretofore prepared and filed by Henry B. Steeg & Associates, Inc., Consulting Engineers of Indianapolis, Indiana, for the aforesaid treatment plant additions, and by the Sewer Engineering Department of the City of Fort Wayne for the St. Joseph River Interceptor Sewer and the St. Mary's River Interceptor Sewer, all of which plans and specifications are hereby approved and by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein; provided that the cost of construction of said improvements and extensions and acquisition of necessary property therefor shall not exceed the estimated sum of Three Million Three Hundred Fifty-eight Thousand Five Hundred Dollars (\$3,358,500) except as to the application of available cash funds on hand if needed. The terms "sewage works," "works,"

and other like terms where used in this ordinance shall be construed to mean and include all existing structures and property and all extensions, enlargements and improvements hereafter constructed or acquired, whether from the proceeds of the bonds herein authorized or otherwise. The additional improvements and extensions to said works shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the provisions of Chapter 284 of the Acts of the Indiana General Assembly for the year 1967, and all acts amendatory thereof and supplemental thereto, hereinafter sometimes referred to as the "Act."

Sec. 2. The City of Fort Wayne shall issue its sewage works revenue bonds in the amount of Three Million Dollars (\$3,000,000) for the purpose of procuring funds to be applied on the cost of said additional improvements and extensions to said works, as defined in Sec. 1 of said Act. The bonds authorized by this ordinance shall be designated as "Sewage Works Improvement Revenue Bonds of 1970." The revenue bonds herein authorized to be issued shall be of equal priority with the now outstanding Sewage Works Improvement Revenue Bonds, dated November 1, 1959, and Sewage Works Improvement Revenue Bonds of 1961, dated August 1, 1961.

Said bonds shall be issued in the denomination of Five Thousand Dollars (\$5,000), numbered consecutively from 1 to 600 inclusive, dated as of the first day of the month in which sold, and shall bear interest at a rate or rates not exceeding seven and one-half per cent (7-1/2%) per annum, payable on the first days of February and August in each year, beginning on August 1, 1970. Such interest shall be evidenced by coupons attached to said bonds. Both bonds and interest coupons shall

be payable in lawful money of the United States of America at the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or, at the option of the holder, at the Continental Illinois National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or the Irving Trust Company, in the Borough of Manhattan, City and State of New York, and such bonds shall mature serially in numerical order on August 1 in the years and amounts as follows:

Year	Amount	Year	Amount	Year	Amount
1971	\$50,000	1979	\$ 80,000	1987	\$140,000
1972	55,000	1980	85,000	1988	150,000
1973	55,000	1981	90,000	1989	165,000
1974	60,000	1982	95,000	1990	180,000
1975	60,000	1983	100,000	1991	190,000
1976	65,000	1984	110,000	1992	205,000
1977	70,000	1985	120,000	1993	215,000
1978	75,000	1986	130,000	1994	225,000
				1995	230,000

Sec. 3. The bonds of this issue maturing on August 1, 1981, and thereafter, shall be redeemable at the option of the City, in whole or in part, on February 1, 1981, or any interest payment date thereafter, in inverse order of maturity and by lot within maturities, at face value, together with the following premiums:

- 5% if redeemed on February 1, 1981, or thereafter on or before August 1, 1985;
- 4% if redeemed on February 1, 1986, or thereafter on or before August 1, 1990;
- 3% if redeemed on February 1, 1991, or thereafter prior to maturity;

plus in each case accrued interest to the date fixed for redemption. Notice of such redemption shall be published at least one time in a newspaper or financial journal of general circulation published in the City of Fort Wayne, Indiana, in a financial journal or newspaper of general circulation published in the City of Indianapolis, Indiana, and in The Bond Buyer, published in the City and State of New York, or if that financial journal

should cease publication, then in a financial journal of national circulation published in the Borough of Manhattan, City and State of New York. Such publication shall not be less than thirty (30) days prior to the date fixed for redemption. If any of the bonds so to be redeemed are registered, such notice shall be mailed to the address of the registered holder as shown on the registration records of the City. The notice shall specify the date and place of redemption, and the serial numbers and dates of maturity of the bonds called for redemption. The place of redemption shall be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named and thereafter when presented for redemption. Coincidentally with the payment of the redemption price, the bonds so called for redemption shall be surrendered for cancellation, together with the unmatured interest coupons appurtenant thereto.

Sec. 4. Said bonds shall be signed in the name of the City by the Mayor, countersigned by the City Controller, and attested by the City Clerk who shall affix the seal of said City to each of said bonds. The interest coupons attached to said bonds shall be executed by placing thereon the facsimile signatures of the Mayor and City Controller, and said officials, by the signing of said bonds, shall adopt as and for their own proper signatures their facsimile signatures appearing on said coupons. In case any officer whose signature appears on the bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as

if such officer had remained in office until the delivery thereof. Said bonds shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana.

Said bonds shall be negotiable by delivery unless registered. Upon presentation of any of the bonds at the office of the City Controller, said City Controller shall register said bonds as to principal without charge or expense to the holder. Such registry shall be noted on each bond so presented, after which no transfer thereof shall be valid unless made by the registered owner in person or by his attorney duly authorized and similarly noted on such bond, but bonds so registered may be discharged from registry by being in like manner retransferred to bearer, after which they shall be transferable by delivery but may again be registered as before. The registration of any bond shall not affect the negotiability of the interest coupons attached thereto, but such coupons shall continue to pass by delivery merely and shall remain payable to bearer.

The principal of and interest on all of said bonds herein authorized, and all bonds on a parity therewith, shall be payable from and secured by an irrevocable pledge of and shall constitute a first charge upon all the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) derived from the sewage works of the City of Fort Wayne, including the improvements and extensions herein authorized to be acquired and constructed and all improvements and extensions and replacements subsequently constructed or acquired. The City shall not be obligated to pay the bonds herein authorized or

the interest thereon except from the net revenues of said works, and said bonds shall not constitute an indebtedness of the City within the meaning of the provisions and limitations of the constitution of the State of Indiana.

Sec. 5. The form and tenor of said bonds, the interest coupons to be attached thereto, and the form of registry endorsement thereon shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

UNITED STATES OF AMERICA
State of Indiana County of Allen

No. _____ \$5,000

CITY OF FORT WAYNE
SEWAGE WORKS IMPROVEMENT
REVENUE BOND OF 1970

The City of Fort Wayne, in Allen County, State of Indiana, for value received, hereby promises to pay to the bearer, or if this bond be registered, then to the registered holder, solely out of the special revenue fund hereinafter referred to, the principal amount of

FIVE THOUSAND DOLLARS

on the first day of August, 19____ (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest thereon from the date hereof until the principal is paid, at the rate of _____ per cent (_____ %) per annum, payable on the first days of February and August in each year, beginning on August 1, 1970, upon presentation and surrender of the annexed coupons as they severally become due.

Both principal and interest of this bond are payable in lawful money of the United States of America at the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or, at the option of the holder, at the Continental Illinois National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or the Irving Trust Company, in the Borough of Manhattan, City and State of New York.

This bond is one of an authorized issue of six hundred (600) bonds of the City of Fort Wayne, of like date, tenor and effect, except as to interest rates and dates of maturity, in the total amount of Three Million

Dollars (\$3,000,000), numbered from 1 to 600 inclusive, issued for the purpose of providing funds to pay the cost of additional improvements and extensions to the City's sewage works, as authorized by an ordinance adopted by the Common Council of the City of Fort Wayne on _____, 1970, entitled "An Ordinance concerning the construction of additional improvements and extensions to the sewage works owned and operated by the City of Fort Wayne, Indiana, the issuance of additional revenue bonds to provide the cost thereof, the collection, segregation and distribution of the revenues of said works, the safeguarding of the interests of the holders of said bonds, and other matters connected therewith," and in strict compliance with the provisions of Chapter 284 of the Acts of the Indiana General Assembly for the year 1967, and the acts amendatory thereof and supplemental thereto.

Pursuant to the provisions of said Act and said ordinance, the principal and interest of this bond and all other bonds of said issue, and the principal and interest of now outstanding bonds of equal priority therewith, are payable solely from the Sewage Works Sinking Fund (heretofore created by Ordinance No. S-420, adopted October 27, 1959, and continued by Special Ordinance No. S-604, adopted July 11, 1961) to be provided from the net revenues (herein defined as gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance) of the sewage works of the City of Fort Wayne, including the additional improvements and extensions constructed or acquired by the use of the proceeds of this bond and the issue of which it is a part, and all improvements and extensions thereto and replacements thereof subsequently constructed or acquired. This bond and the bonds of the issue of which it is a part are of equal priority in respect to the application of the revenues hereinbefore referred to with certain Sewage Works Improvement Revenue Bonds, dated November 1, 1959, now outstanding in the principal amount of Two Million Fifty-five Thousand Dollars (\$2,055,000), which outstanding bonds are payable annually over a period ending on August 1, 1990, and certain Sewage Works Improvement Revenue Bonds of 1961, dated August 1, 1961, now outstanding in the principal amount of One Million Six Hundred Ninety Thousand Dollars (\$1,690,000), which outstanding bonds are payable annually over a period ending on August 1, 1993. This bond shall not constitute an indebtedness of the City of Fort Wayne within the meaning of the provisions and limitations of the constitution of the State of Indiana, and the City shall not be obligated to pay this bond or the interest thereon except from said special fund provided from said net revenues.

The City of Fort Wayne irrevocably pledges the entire net revenues of said sewage works, to the extent

necessary for that purpose, to the prompt payment of the principal and interest of the bonds authorized by said ordinance, of which this is one, the outstanding bonds on a parity therewith, and any bonds hereafter issued on a parity therewith. The City covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said works as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said works, to provide for proper depreciation, and for the payment of the sums required to be paid into said Sinking Fund under the provisions of said Act and said ordinance. In the event the City, or the proper officers thereof, shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the holder of this bond shall have all of the rights and remedies provided for in said Chapter 284, Acts of 1967, and the acts amendatory thereof and supplemental thereto, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this bond and the interest thereon.

The City further covenants that it will set aside and pay into its Sewage Works Sinking Fund a sufficient amount of the net revenues of said works to meet (a) the interest on all bonds payable from said fund as such interest shall fall due, (b) the necessary fiscal agency charges for paying the bonds and interest, (c) the principal of all bonds payable from said fund as such principal shall fall due, and (d) an additional amount as a margin of safety and for the payment of premiums on bonds redeemed by call or purchase, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than ten per cent (10%) of all other amounts so required to be paid into said Sinking Fund.

The bonds of this issue maturing on August 1, 1981, and thereafter, are redeemable at the option of the City, in whole or in part, on February 1, 1981, or any interest payment date thereafter, in inverse order of maturity and by lot within maturities, at face value, together with the following premiums:

- 5% if redeemed on February 1, 1981, or thereafter on or before August 1, 1985;
- 4% if redeemed on February 1, 1986, or thereafter on or before August 1, 1990;
- 3% if redeemed on February 1, 1991, or thereafter prior to maturity;

plus in each case accrued interest to the date fixed for redemption; provided notice of such redemption shall be published one time at least thirty (30) days prior to the date fixed for redemption in a newspaper or financial

journal of general circulation published in the City of Fort Wayne, Indiana, in a financial journal or newspaper of general circulation published in the City of Indianapolis, Indiana, and in The Bond Buyer, published in the City and State of New York, or if that financial journal should cease publication, then in a financial journal of national circulation published in the Borough of Manhattan, City and State of New York. A like notice shall be sent by mail to the holders of such bonds as are then registered. Interest on bonds so called for redemption shall cease on the redemption date fixed in said notice, if funds are available at the place of redemption to pay the redemption price on the date so named and thereafter when presented for payment. The bonds so redeemed prior to maturity shall be surrendered for cancellation, together with all unmatured interest coupons appurtenant thereto.

If any bond or interest coupon shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, an amount sufficient to pay such bond or interest coupon or the redemption price thereof, as the case may be, and thereafter the holder shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This bond and all other bonds of said issue shall have all the qualities and incidents of negotiable instruments under the laws of the State of Indiana. This bond may be registered as to principal at the office of the City Controller in the City of Fort Wayne, Indiana, in the name of the owner hereof, and such registration noted hereon by said City Controller. Thereafter no transfer hereof shall be valid unless made at said office by the registered owner in person or by his duly authorized attorney and similarly noted hereon, but this bond may be discharged from registration by being in like manner transferred to bearer and may again from time to time be registered or transferred to bearer as before. Such registration shall not restrict or affect the negotiability of the interest coupons hereto attached by delivery only, but such interest coupons shall always be payable to bearer.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

IN WITNESS WHEREOF, the City of Fort Wayne, in Allen County, State of Indiana, has caused this bond to be executed in its corporate name by its Mayor, countersigned by its City Controller, its corporate seal to be hereunto affixed and attested by its City Clerk, and the interest coupons hereto attached to be executed by

placing thereon the facsimile signatures of said Mayor and City Controller, as of the first day of _____, 1970.

CITY OF FORT WAYNE

By _____

Mayor

Countersigned:

City Controller

Attest:

City Clerk

(Interest Coupon)

Coupon No. _____ \$ _____

On _____ 1, 19

(unless the bond herein mentioned shall be subject to and shall have been called for previous redemption), the City of Fort Wayne, Indiana, will pay to bearer at the Lincoln National Bank and Trust Company of Fort Wayne, in the City of Fort Wayne, Indiana, or, at the option of the holder, at the Continental Illinois National Bank and Trust Company of Chicago, in the City of Chicago, Illinois, or the Irving Trust Company, in the Borough of Manhattan, City and State of New York, out of its Sewage Works Sinking Fund, _____ Dollars in lawful money of the United States of America, being the interest then due on its Sewage Works Improvement Revenue Bond of 1970, dated _____ 1, 1970, No. _____.

CITY OF FORT WAYNE

By _____ (Facsimile)

Mayor

(Facsimile)

City Controller

REGISTRATION ENDORSEMENT

This bond can be registered only at the office of the City Controller of the City of Fort Wayne, Indiana. No writing hereon except by the City Controller.

Date of Registry	In Whose Name Registered	City Controller
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sec. 6. The City Controller is hereby authorized and directed to have said bonds and coupons prepared, and the Mayor,

City Controller and City Clerk are hereby authorized and directed to execute said bonds and the interest coupons to be attached thereto, in the form and manner herein provided.

After said bonds have been properly executed, the City Controller shall deliver the same to the Treasurer of the City of Fort Wayne and shall take his receipt therefor, and upon the consummation of the sale of said bonds the City Controller shall certify to the Treasurer the amount which the purchaser is to pay for the same; thereupon, the Treasurer shall be authorized to receive from the purchaser the amount so certified by the Controller, and to deliver the bonds to such purchaser. The amount to be certified by the Controller and collected by the Treasurer shall be the full amount which the purchaser has agreed to pay therefor, which shall not be less than the face value of said bonds, plus accrued interest from the date thereof to the date of delivery. The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be binding special revenue obligations of the City, payable out of the revenues of the City's sewage works to be set aside into the Sewage Works Sinking Fund as herein provided, and the proceeds derived from the sale of said bonds shall be and are hereby set aside for application on the cost of construction of said improvements and extensions to the City's sewage works hereinbefore referred to, and the expenses necessarily incurred in connection therewith and on account or in connection with the issuance of said bonds. The proper officers of the City are hereby directed to do all acts and things which may be necessary to carry out the provisions of this ordinance.

Sec. 7. Prior to the sale of said bonds the City Controller

shall cause to be published a notice of such sale once each week for two (2) weeks in the Fort Wayne News-Sentinel and Fort Wayne Journal-Gazette, newspapers of general circulation published in the City of Fort Wayne, Indiana, the last publication to be at least seven (7) days prior to the date fixed for said sale. Said notice, or a summary thereof, may also be published in a financial journal published in the City of Indianapolis, Indiana, and a financial journal published in the City of New York, New York, in the discretion of the City Controller. The bond sale notice shall state the time and place of sale, the character and amount of the bonds, the maximum rate of interest thereon, the maturities thereof, the purpose for which the bonds are being issued, the terms and conditions upon which bids will be received and the sale made, and such other information as the City Controller and the attorneys employed by the City shall deem advisable. Said notice shall provide, among other things, that each bid shall be accompanied by a certified or cashier's check in the amount of Thirty Thousand Dollars (\$30,000) to guarantee performance on the part of the bidder, and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default.

All bids for said bonds shall be sealed and shall be presented to the Controller at his office. Bidders for said bonds shall be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed. Such interest rate or rates shall be in multiples

of one-eighth (1/8) or one-tenth (1/10) of one per cent (1%), and not more than four (4) different interest rates shall be named by each bidder. A rate may be repeated without being considered a different rate. Bids specifying more than one interest rate shall also specify the amount and maturities of the bonds bearing each rate, but all bonds maturing on the same date shall bear the same rate. The bonds shall be awarded by the City Controller to the highest qualified bidder who has submitted his bid in accordance with the terms of this ordinance and the notice of sale. The highest bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the bonds to their maturities and deducting therefrom the premium bid, if any. No bid for less than the par value of said bonds, including accrued interest to the date of delivery, shall be considered. The right to reject any and all bids shall be reserved. In the event an acceptable bid is not received on the date fixed in the notice, the City Controller shall be authorized to continue the sale from day to day for a period of not to exceed thirty (30) days without re-advertisement, but during such continuation no bid shall be accepted which is lower than the highest bid offered at the advertised sale.

Prior to the delivery of said bonds, the Controller shall be authorized to obtain a legal opinion as to the validity of the bonds from Ice Miller Donadio & Ryan, acting as bond counsel for the City, and to furnish such opinion to the purchasers of the bonds at the time of delivery thereof. The fee of such bond counsel and J. R. Arnold, attorney acting as counsel and attorney for the project, shall be considered as a part of

the cost of the project on account of which said bonds are issued, and shall be paid out of the proceeds of said bonds.

Sec. 8. The accrued interest and premium received at the time of the delivery of the bonds, if any, shall be deposited in the Sewage Works Sinking Fund heretofore created by Ordinance No. S-420, adopted October 27, 1959, and continued by Special Ordinance No. S-604, adopted July 11, 1961. The remaining proceeds from the sale of said bonds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Fort Wayne, Sewage Works Construction Account." All funds deposited to the credit of said Sewage Works Sinking Fund or Sewage Works Construction Account shall be deposited, held and secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding and securing or investing of public funds. The depository or depositories for said Sewage Works Sinking fund shall be a bank which shall be a member of the Federal Reserve System and of the Federal Deposit Insurance Corporation, or like organizations having similar powers and duties. The funds in said Sewage Works Construction Account shall be expended only for the purpose of paying the cost of the improvements and extensions to the works, as defined in Sec. 1 of said Chapter 284 of the Acts of 1967, as amended, or as otherwise required by said Act. Any balance or balances remaining unexpended in such special account or accounts after completing of the works, which are not required to meet unpaid obligations incurred in connection with such project, shall be paid into the Sewage Works Sinking Fund and shall be used solely for the purposes of said Fund.

Subject to the approval of the Board of Public Works, the

City Controller is hereby authorized to invest in direct obligations of the United States Government such portion of the funds in said Sewage Works Construction Account as shall not be required for immediate use, provided that no such investment shall be made at a cost in excess of the par value of the securities purchased, and that none of the funds shall be invested in any securities the maturity date of which is later than the time when such funds are required to be available for the purposes thereof, or if the time when such funds will be required for use cannot be determined, such investment shall be made only in securities having a maturity date of one (1) year or less from the date of purchase. Such investment shall be made in strict accordance with the provisions of Chapter 9 of the Acts of the Indiana General Assembly for the year 1945, as amended, and any interest or other accretions derived from any such investments shall become a part of the funds invested. In conformity with the provisions of the governing statutes, the holders of said bonds shall be entitled to a lien on the proceeds of said bonds until the same are applied on the project on account of which said bonds were issued.

Sec. 9. The special fund designated "Sewage Works Sinking Fund" created by Ordinance No. S-420, adopted on October 27, 1959, as the fund for the payment of the Sewage Works Improvement Revenue Bonds authorized by that ordinance, and designated by Special Ordinance No. S-604, adopted on July 11, 1961, as the fund for the payment of the Sewage Works Improvement Revenue Bonds of 1961 authorized by that ordinance, is hereby designated as the special fund for the payment of the interest on and principal of the revenue bonds authorized by

this ordinance and the payment of any fiscal agency charges in connection with the payment of the bonds and interest coupons. Said fund shall be continued until all of the bonds issued under said prior ordinances and this ordinance have been paid. There shall be set aside and paid into said Sinking Fund monthly, as available, or oftener if necessary, a sufficient amount of the net revenues of said sewage works for the payment of (a) the interest on all bonds payable from said Sinking Fund as such interest shall fall due, (b) the necessary fiscal agency charges for paying said bonds and interest, (c) the principal of all bonds payable from said Sinking Fund as such principal shall fall due, and (d) an additional amount as a margin of safety and for the payment of premiums upon bonds redeemed by call or purchase, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than ten per cent (10%) of all other amounts so required to be paid into said Sinking Fund. The Sewage Works Improvement Revenue Bonds and Sewage Works Improvement Revenue Bonds of 1961 hereinbefore referred to and the bonds authorized by this ordinance shall be of equal priority in respect to the payment of interest and principal from the funds in said Sewage Works Sinking Fund. The term "net revenues" as used in this section shall be construed to mean the revenues remaining after the reasonable costs of operation, maintenance and repair have been paid. The monthly payments into said Sinking Fund shall be in an amount equal to at least one-twelfth (1/12) of the amount required for such payments during the then next succeeding twelve (12) calendar months and shall continue until such time as said fund shall contain an amount sufficient to pay all of the herein au-

thorized bonds then outstanding, together with the interest thereon to the dates of maturity thereof. In addition to said required monthly payments into the Sewage Works Sinking Fund, all of the net revenues of said sewage works not used in making said required sinking fund payments shall be set aside and paid into said Sinking Fund monthly, as available, until there has been accumulated in said Sewage Works Sinking Fund, over and above said required payments, an amount equal to the sum of the principal and interest on all then outstanding bonds which will be payable during the then next succeeding twelve (12) calendar months. Thereafter, said fund shall be maintained at such level, and additional amounts of net revenues shall be deposited in said fund to the extent necessary to maintain such level.

In no event shall any part of the Sewage Works Sinking Fund be used in calling bonds for redemption prior to maturity, except to the extent that the amount then in said Sinking Fund exceeds the amount required to pay the principal of the bonds payable therefrom which will mature within a period of twelve (12) calendar months next following the date of such redemption, together with all interest on the bonds payable in said period. Any such excess of funds above said required level may also be used in purchasing outstanding bonds at a price less than the then applicable redemption price, if first approved by the Board of Public Works. Moneys in said Sinking Fund shall not be used for any other purpose whatsoever except as provided in this ordinance.

Sec. 10. In the event all required payments into the Sewage Works Sinking Fund have been met to date and there has been accumulated as a reserve in said Sewage Works Sinking Fund

over and above said payments an amount equal to the sum of the principal and interest on the then outstanding bonds which will be payable during the then next succeeding twelve (12) calendar months, and there has been accumulated and reserved funds in an amount sufficient for operation, repair and maintenance of the works for the then next succeeding twelve (12) calendar months, and for depreciation, then any excess revenues of the works available may be placed in a Sewage Works Improvement Fund and be used to pay the cost of improvements, betterments, extensions, enlargements and additions to the works. No revenues of the works shall be deposited in or credited to the Sewage Works Improvement Fund which will interfere with the requirements of the Sewage Works Sinking Fund, the accumulation of the required reserve therein, or with the requirements as to reserving funds for the operation, maintenance and repair of the works, and for depreciation. All or any portion of the funds accumulated and reserved for operation, repair and maintenance for the then next succeeding twelve (12) calendar months shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the bonds payable from said Sinking Fund.

Sec. 11. All revenues received on account of the sewage works shall be segregated and kept in a special fund separate and apart from all other funds of the City. Out of this fund the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid and the requirements of the Sewage Works Sinking Fund shall be met. The City shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and cor-

rect entries shall be made showing all revenues collected from said works and deposited in said fund, and all disbursements made therefrom on account of the operation of the works, and to meet the requirements of the Sewage Works Sinking Fund, also all other financial transactions relating to said works, including the amounts set aside or credited to the Sewage Works Sinking Fund and Sewage Works Improvement Fund, and the cash balances in each of said funds as of the close of the preceding fiscal year. There shall be prepared and furnished to the original purchasers of the bonds, and, upon written request, to any holder of the bonds at the time then outstanding, not more than ninety (90) days after the close of each fiscal year, income and expense and balance sheet statements of the works, covering the preceding fiscal year, which annual statements shall be certified by the City Controller, or the person charged with the duty of auditing the books and records relating to said works, or an independent certified public accountant employed for that purpose. Copies of all such statements and reports shall be kept on file in the office of the City Controller. Any holder or holders of the bonds then outstanding shall have the right at all reasonable times to inspect the works and all records, accounts and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

Sec. 12. The City shall, by ordinance of the Common Council, maintain just and equitable rates or charges for the use of and the services rendered by said works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said sewage works by or through any part of the sewerage system of the City, or that in any way

uses or is served by such works. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of the works and the payment of the sums required to be paid into the Sewage Works Sinking Fund by said governing Act. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation, repair and maintenance, depreciation, and the requirements of the Sewage Works Sinking Fund. The rates or charges so established shall apply to any and all use of such works by and services rendered to the City and all departments thereof, and shall be paid semi-annually by the City or the various departments thereof as the charges accrue. No increase in the existing rates and charges being necessary, said existing rates and charges are hereby adopted as the estimate of rates and charges within the meaning of Sec. 6 of the governing Act.

Sec. 13. The City reserves the right to authorize and issue additional bonds, payable out of the revenues of its sewage works, ranking on a parity with the bonds authorized by this ordinance, for the purpose of financing the cost of future additions, extensions and improvements to the sewage works, subject to the following conditions:

(a) The interest on and principal of all bonds payable from the revenues of the sewage works shall have been paid to date in accordance with the terms thereof.

(b) As of the date of issuance of such additional bonds, the balance in the Sewage Works Sinking Fund shall equal not less than the principal and interest requirements of the then outstanding bonds payable during the then next succeeding twelve

(12) calendar months.

(c) The net revenues of the sewage works in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the bonds authorized by this ordinance shall be not less than one hundred twenty-five per cent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued; or, prior to the issuance of said parity bonds, the sewage rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous fiscal year's operations would have produced net revenues for said year equal to not less than one hundred twenty-five per cent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings shall be prepared and certified by a certified public accountant employed by the City for that purpose, who shall certify that he has no pecuniary interest in said additions, extensions or improvements, or the financing thereof, other than to analyze said records and prepare said showings.

(d) The interest on said additional bonds shall be payable semi-annually on February 1 and August 1 and the principal thereof shall be payable annually on August 1.

Sec. 14. For the purpose of further safeguarding the interests of the holders of the bonds herein authorized, it is specifically provided as follows:

(a) All contracts let by the City in connection with the construction of said improvements and extensions to the

sewage works shall be let after due advertisement as required by laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred per cent (100%) of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The additional improvements and extensions hereinbefore referred to shall be constructed under the supervision and subject to the approval of Henry B. Steeg & Associates, Inc., and the Sewer Engineering Department of the City of Fort Wayne, Indiana, or such other competent engineer as shall be designated by the Board of Public Works. All estimates for work done or material furnished shall first be checked by the appropriate engineer and approved by the Board of Public Works.

(c) The City shall at all times maintain its sewage works in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the bonds herein authorized are outstanding, the City shall maintain insurance on the insurable parts of said works of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds shall be used in replacing or repairing the property destroyed or damaged;

or if not used for that purpose shall be treated and applied as net revenues of the works.

(e) So long as any of the bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber such works, or any part thereof, nor shall it sell, lease or otherwise dispose of any portion thereof except replaced equipment which may become worn out or obsolete.

(f) Except as otherwise provided in Sec. 13 of this ordinance, so long as any of the bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said sewage works shall be authorized, executed or issued by the City except such as shall be made subordinate and junior in all respects to the bonds herein authorized, unless all of the bonds herein authorized are redeemed and retired coincidentally with the delivery of such additional bonds or other obligations, or the bonds have been duly called for redemption and funds sufficient to effect such redemption are available and set aside for that purpose at the time of issuance of such additional bonds.

(g) The City shall take all actions or proceedings necessary and proper to require connection of all property where liquid and solid waste, sewage, night soil, or industrial waste is produced, with available sanitary sewers. The City shall, insofar as possible, cause all such sanitary sewers to be connected with said sewage works.

(h) The provisions of this ordinance shall constitute a contract by and between the City of Fort Wayne and the holders of the sewage works revenue bonds herein authorized, and after the issuance of said bonds this ordinance, except as

provided in Sec. 15 hereof, shall not be repealed or amended in any respect which will adversely affect the rights of the holders of said bonds, nor shall the Common Council or other body of the City adopt any law, ordinance or resolution which in any way adversely affects the rights of such holders so long as any of said bonds or the interest thereon remain unpaid.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the bonds herein authorized for the uses and purposes herein set forth, and the holders of the bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of said governing Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the net revenues herein directed to be set apart and paid into the Sewage Works Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The holders of said bonds shall have all of the rights, remedies and privileges set forth in the provisions of the governing Act hereinbefore referred to, including the right to have a receiver appointed to administer said sewage works, in the event of default in the payment of the principal of or interest on any of the bonds herein authorized for a period of thirty (30) days, or in the event of default in respect to any of the provisions of this ordinance or the governing Act.

Sec. 15. Subject to the terms and provisions contained in this section, and not otherwise, the holders of not less than sixty-six and two-thirds per cent ($66\frac{2}{3}\%$) in aggregate principal amount of the bonds issued pursuant to this ordinance and then outstanding shall have the right from time to

time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Common Council of the City of Fort Wayne of such ordinance or ordinances supplemental hereto, as shall be deemed necessary or desirable by the City of Fort Wayne for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest on any bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon; or

(c) The creation of a lien upon or a pledge of the revenues of the sewage works ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any bond or bonds issued pursuant to this ordinance over any other bond or bonds issued pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

If the holders of not less than sixty-six and two-thirds per cent ($66\frac{2}{3}\%$) in aggregate principal amount of the bonds outstanding at the time of adoption of such supplemental ordinance

shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the City Controller of the City of Fort Wayne, no holder of any bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City of Fort Wayne from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City of Fort Wayne and all holders of bonds issued pursuant to the provisions of this ordinance then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the holders of the bonds authorized by this ordinance, and the terms and provisions of the bonds and this ordinance, or any supplemental ordinance, may be modified or altered in any respect by the City of Fort Wayne with the consent of the holders of all the bonds issued pursuant to this ordinance then outstanding.

Sec. 16. All ordinances and parts of ordinances in conflict herewith are hereby repealed; but none of the provisions of this ordinance shall be so construed as adversely affecting

the rights of holders of said outstanding Sewage Works Improvement Revenue Bonds, issued under date of November 1, 1959, and Sewage Works Improvement Revenue Bonds of 1961, issued under date of August 1, 1961.

Sec. 17. This ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Thomas H. Adams

APPROVED AS TO FORM
AND LEGALITY

[Signature]
CITY ATTORNEY

Read the first time in full and on motion by Adams seconded by

Steigerwald and duly adopted, read the second time by title and referred to the (Committee on) Finance (and to the City Plan

~~Commission for Recommendation~~) (and Public Hearing to be held after due legal notice,

~~at the Council Chambers, City Hall, Fort Wayne, Indiana, on~~

the _____ day of _____ 196____, at _____ o'clock

~~P.M., E.S.T.~~

Date: 2-10-70

Fuad G. Bonahoom
City Clerk

Read the third time in full and on motion by Adams

seconded by Steigerwald and duly adopted, placed on its passage.

Passed (1967) by the following vote:

AYES 8, NAYS _____, ABSTAINED _____, ABSENT 1 to-wit:

Adams	<u>✓</u>	_____	_____	_____
Dunifon	<u>✓</u>	_____	_____	_____
Fay	<u>✓</u>	_____	_____	_____
Geake	<u>✓</u>	_____	_____	_____
Nuckols	<u>✓</u>	_____	_____	_____
Robinson	<u>✓</u>	_____	_____	_____
Rousseau	_____	_____	_____	<u>✓</u>
Steigerwald	<u>✓</u>	_____	_____	_____
Tipton	<u>✓</u>	_____	_____	_____

Date 2-24-70

Fuad G. Bonahoom
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 5416-70

on the 24th day of February, 19670.

ATTEST: (SEAL)

Fuad G. Bonahoom
City Clerk

Herbert S. Lepton
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of February, 19670 at the hour of 8:30 o'clock A.M., E.S.T.

Fuad G. Bonahoom
City Clerk

Approved and signed by me this 25th day of February, 1960, at the hour of 9:05 o'clock A. M., E.S.T.

Harold S. Zeis
Mayor

Bill No. S-70-02-01

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance
concerning the construction of additional improvements and extensions to the sewage
works owned and operated by the City of Fort Wayne, Indiana, the issuance of additional
revenue bonds to provide the cost thereof, the collection, segregation and distribution
of the revenues of said works, the safeguarding of the interests of the holders of said
bonds, and other matters connected therewith,

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance DO PASS.

THOMAS G. ADAMS, Chairman

EDWIN J. ROUSSEAU, Vice-Chairman

JACK K. DUNIFON

WILLIAM K. GEAKE

PHIL A. STEIGERWALD

Thomas G. Adams

Jack K. Dunifon
William K. Geake
Phil A. Steigerwald

CONCURRED IN

DATE 2-24-70 RUAD G. DONAHOOM, CITY CLERK